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2 UNITED STATES DISTRICT COURT  
3 WESTERN DISTRICT OF WASHINGTON  
4 AT SEATTLE

5 PAT'S MARINE ENGINES, INC.,

6 Plaintiff(s),

7 v.

8 WHITECAP, Official Number: 1041109, her  
9 Engines, Machinery, Appurtenances, etc., *In Rem*,

10 and

11 BATOUR SEKENDUR,  
12 *In Personam*,

13 Defendant(s).

NO. C08-1401MJP

ORDER ON MOTION FOR PARTIAL  
SUMMARY JUDGMENT BY  
CLAIMANT McCANDLISS

14 The above-entitled Court, having received and reviewed:

- 15 1. Motion for Partial Summary Judgment by Claimant Glenn A. McCandliss (Dkt. No. 20)
- 16 2. Defendant Batour Sekendur's Opposition to Motion for Partial Summary Judgment by  
17 Claimant Glenn A. McCandliss (Dkt. No. 23)
- 18 3. Claimant's Reply in Support of Motion for Summary Judgment (Dkt. No. 24)

19 and all attached exhibits and declarations, makes the following ruling:

20 IT IS ORDERED that the Order of Default *In Rem* Against All Persons (Dkt. No. 17) is  
21 VACATED as regards Claimant McCandliss, whom the Court finds filed a valid Notice of Appearance  
22 of Judgment Creditor (Dkt. No. 16) prior to the entry of the default order.

23 IT IS FURTHER ORDERED that Defendant Sekendur shall file a responsive pleading to  
24 Claimant McCandliss's motion which addresses the substantive arguments of that motion; the response  
25 shall be due by no later **February 16, 2009**. Claimant McCandliss's reply brief shall be due by  
26 **February 20, 2009**, following which the Court shall rule on the merits of his motion.

1 **Discussion**

2 Glenn McCandliss, appearing *in pro per*, timely filed an appearance and notice of an interest in  
3 the subject Vessel as a purported judgment creditor of Defendant/Counter-Plaintiff Sekendur.

4 Although McCandliss's Notice of Appearance was filed on November 7, 2008, several days in  
5 advance of the entry of default order against all creditors (filed on November 10, 2008), it was not  
6 entered into the docket until the day the default order was filed and the Clerk of the Court was  
7 apparently unaware of its existence. The Court is satisfied that the notice of appearance was timely  
8 filed and that the default order is not applicable to McCandliss.

9 McCandliss then filed the motion for partial summary judgment which is the subject of this  
10 order, asserting that Defendant/Counter-Plaintiff Sekendur had previously transferred his interest in  
11 the subject Vessel and therefore lacked standing to assert the claims presented by this litigation.  
12 Defendant's response was to seek to interpose the Order of Default and argue that McCandliss  
13 possessed no standing to obtain the relief he sought. Opposition at p.1-2.

14 As outlined above, that argument is unpersuasive and Defendant/Counter-Plaintiff Sekendur  
15 must respond to the substantive arguments raised in McCandliss's pleadings; namely, that Sekendur's  
16 interest in the subject Vessel was previously transferred to another party and it is Sekendur who lacks  
17 standing in this action. The parties shall file responsive pleadings addressing the merits of the motion;  
18 the schedule for those filings is set forth in the Order above.

19 The clerk is directed to provide copies of this order to all counsel of record.

20 Dated: February 2, 2009

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22 Marsha J. Pechman  
23 U.S. District Judge  
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